

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 :
 ANDREAS PEFANIS, on behalf of :
 himself and others similarly :
 situated, :
 Plaintiff, : 08 Civ. 002 (DLC)
 :
 -v- :
 :
 WESTWAY DINER, INC., :
 Defendant. :
 ----- X

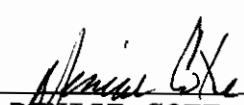
USDC SDNY
DOCUMENT
FILED, **ORIALLY FILED**
10/17/08 FILED: 10/17/08

DENISE COTE, District Judge:

On October 8, 2008, the Court approved plaintiff's motion to provide notice of a collective action pursuant to the Fair Labor Standards Act (FLSA). Following an October 10, 2008 conference with the parties, plaintiff submitted a revised collective action notice for the Court's review. The Court hereby approves the attached notice of collective action.

SO ORDERED:

Dated: New York, New York
October 17, 2008


DENISE COTE
United States District Judge

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NOTICE OF PENDENCY OF LAWSUIT REGARDING WAGES

To: All non-exempt hourly employees of Westway Diner, Inc. (“Westway”) who worked for Westway within the last three years, including kitchen staff, waiters, busboys, and runners.

The purpose of this Notice is to advise you of a lawsuit brought under the federal Fair Labor Standards Act (“FLSA”) that has been filed against Westway and to advise you of your legal rights in connection with the lawsuit.

1. DESCRIPTION OF THE LAWSUIT

Andreas Pefanis, on behalf of himself and all others similarly situated, filed this lawsuit against Westway on January 2, 2008. Pefanis claims that Westway did not pay hourly employees for all hours worked and failed to pay employees’ minimum and overtime wages. The lawsuit seeks money owed in back wages, additional damages known as “liquidated damages,” interest, attorneys’ fees, and costs. Westway denies all wrongdoing and liability.

2. YOUR RIGHT TO MAKE A CLAIM IN THIS LAWSUIT

If at any time within the last three years you worked for Westway as an hourly employee and you believe that you were not paid the wages you were owed, you may join this lawsuit. You do not need to have a record of the hours you worked in order to do so. To join this lawsuit, you must sign a written Consent to be a “party-plaintiff” in the lawsuit. This form will be filed with the Court.

It is entirely your decision whether or not to join this lawsuit. If you do file the Consent to join this lawsuit, it is against the law for Westway to retaliate against you for doing so by, for example, firing you, lowering your wages, or reducing your hours.

3. THE CONSENT FORM

To join this lawsuit, fill out and send the form attached to this notice, which is entitled "Consent to Join Lawsuit Filed under the Federal Fair Labor Standards Act," to the attorney for the plaintiffs:

D. Maimon Kirschenbaum
Joseph & Herzfeld, LLP
Attorneys at Law
757 Third Avenue, Suite 2500
New York, NY 10017
Fax: (212) 688-2548

If you want to join the lawsuit, your Consent form must be postmarked by no later than **January 30, 2009**.

For your convenience, a self-addressed, postage-paid envelope is enclosed. If you have any questions with respect to this lawsuit, you may call plaintiffs' counsel, Maimon Kirschenbaum, at Joseph & Herzfeld, LLP, at (212) 688-5640. His email address is: maimon@jhllp.com.

4. EFFECT OF JOINING THIS LAWSUIT

If you choose to join this lawsuit, you will be bound by any judgment entered in this case, whether favorable or unfavorable. While the lawsuit is proceeding, you may be required to respond to written questions, sit for depositions, and/or testify in court.

5. YOUR ATTORNEY

If you join this lawsuit, you will become a "party plaintiff" and will be represented by Maimon Kirschenbaum, who represents the plaintiffs in this lawsuit. You will not have to pay any of the cost of this lawsuit. At the conclusion of the case, plaintiffs' counsel will make an application to the Court to recover his fees and costs from any payments collected from Westway.

6. THE LEGAL EFFECT OF NOT FILING THE CONSENT FORM

If you do not file the Consent form, you will not receive any money from this lawsuit, and you will not be bound by any judgment or settlement in this case, whether favorable or unfavorable. If you choose not to join this lawsuit, you are free to file your own lawsuit.

Please do not write or call the Court about this notice.

Although the Court has approved the sending of this notice, the Court expresses no opinion on the merits of this lawsuit.

Dated: _____

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SOUTHERN DISTRICT OF NEW YORK

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others similarly situated, :
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**CONSENT TO JOIN LAWSUIT FILED UNDER THE FEDERAL
FAIR LABOR STANDARDS ACT**

To: Clerk of Court, Southern District of New York

I consent to be a plaintiff in an action to collect unpaid wages.

Full Legal Name (print)

Signature

Date

Client Information

Name: _____

Address: _____

Telephone
Number(s): _____
